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MEMO ENDORSED

VIA EMAIL

Hon. Katharine H. Parker (Parker_NYSDChambers@nysd.uscourts.gov)
United States Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, New York 10007-1312

Re: Kleeberg et al. v. Eber et al.
Case No. 1:16-cv-09517-LAK-KHP

Dear Magistrate Judge Parker:

We represent Canandaigua National Bank & Trust ("CNB") in connection with the above-referenced matter and I write regarding the case management conference scheduled for tomorrow, May 30, 2018 at 10:45 a.m. As I indicated in my earlier telephone call to chambers, on Thursday, May 24, 2018, a settlement was reached between the plaintiffs and CNB which will include an exchange of general releases. I have asked the co-defendants' counsel to stipulate to the dismissal of the action as against CNB but, because they need to discuss this request with their respective clients, I have not yet heard back from them in this regard.

As a result, I would request that I be excused from the case management conference tomorrow morning in the expectation that the case against CNB will be dismissed either upon stipulation of all counsel or on motion. My research indicates that the rights of the co-defendants will be adequately protected by virtue of Section 15-108 of the General Obligations Law of the State of New York.

One of the motives on the part of CNB for settling with the Plaintiffs was to minimize legal expenses and, if I am required to go to New York City tomorrow that would thwart my client's efforts to keep additional legal expenditure in connection with this matter to a minimum. Accordingly, I would respectfully request that I be permitted to sit out tomorrow's case management

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conference. I will do whatever I can to facilitate CNB's dismissal so that the case can move forward without my client.

Thank you for your consideration.

Respectfully yours,

WOODS OVIATT GILMAN LLP



Dan O'Brien

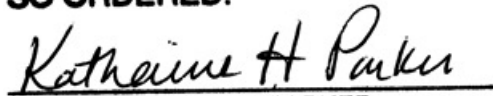
DOB/vat

cc: Brian C. Brook, Esq. (*via e-mail*)
Paul F. Keneally, Esq. (*via e-mail*)
Robert B. Calihan, Esq. (*via e-mail*)

APPLICATION GRANTED:

Counsel for CNB is excused from the case management conference on May 30, 2018. Counsel for CNB is directed to update the Court as to the status of CNB's dismissal from the lawsuit once the parties have met and conferred on the stipulation of dismissal.

SO ORDERED:


HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE

5-29-18